



Ohio Legislative Service Commission

Bill Analysis

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H.B. 527

131st General Assembly
(As Introduced)

Reps. Dever, Arndt, Becker, Bishoff, Maag, Ruhl

BILL SUMMARY

- Prohibits an employer from requesting an applicant's Social Security number, birthdate, or driver's license number before making the applicant an employment offer, unless an exception applies.
- Prohibits, unless an exception applies, an employer from using information about an applicant obtained during the initial selection process for a purpose other than to determine whether the employer will make the applicant an employment offer.
- Prohibits, unless an exception applies, an employer from providing information about an applicant obtained through the initial selection process to a person other than the employer.
- Requires an employer to maintain a policy regarding the retention, disposition, access, and confidentiality of any information collected about an applicant during the initial selection process.
- Requires an employer to provide an applicant an opportunity to review the policy before requiring the applicant to provide information to the employer as a part of the initial selection process.
- Prohibits an employer from retaining any information about an applicant collected during the initial selection process for longer than two years after the date on which the applicant provides the information if the employer does not hire the applicant during that period.
- Allows an individual to sue an employer who violates the bill's prohibitions or requirements for actual damages.

CONTENT AND OPERATION

Prohibition on employers requesting certain information from applicants

The bill prohibits an employer, unless an exception applies, from requesting the following information from an applicant before making the applicant an employment offer:

- The applicant's Social Security number;
- The applicant's birthdate;
- The applicant's driver's license number.¹

Exceptions

The bill allows an employer to request the information listed immediately above from an applicant before making an offer of employment for either of the following reasons:

- The employer requests the information to take one of the following actions during the employee selection process:
 - To obtain a criminal records check of an applicant;
 - To obtain the applicant's credit history, subject to federal law governing credit reports;
 - To obtain the applicant's driving record from the Bureau of Motor Vehicles;
 - To conduct a review of the employer's internal records to determine whether the applicant had previously been employed by or had previously applied for employment with the employer.
- The employer requests the information to provide to a government entity to determine the applicant's eligibility for or participation in a government service, benefit, or program that requires the information to be collected on or before the day on which an employer makes an employment offer to an applicant.²

¹ R.C. 4175.02(A).

² R.C. 4175.02(B).



The bill specifies that the exception for conducting a review of the employer's internal records applies only if the generally prohibited information is necessary to conduct the review.³ The bill prohibits an employer from taking action under any of the exceptions listed above unless the employer receives an applicant's written consent.⁴ The bill also prohibits an employer from failing to follow through with using the generally prohibited information under one of the exceptions listed above after the employer has requested that information from an applicant.⁵

Prohibitions related to the use and dissemination of information about an applicant

The bill prohibits an employer from doing either of the following unless an exception applies:

- Using information, including for marketing, profiling, or reselling, about an applicant obtained during the initial selection process for a purpose other than to determine whether the employer will make the applicant an employment offer;
- Providing information about an applicant obtained through the initial selection process to a person other than the employer.⁶

Exceptions

The bill allows an employer to provide information about an applicant to a person other than the employer for any of the following reasons:

- The information is required by law.
- The information is required by a government entity to determine eligibility for or participation in a government service, benefit, or program.
- The applicant applies for another position with the employer.

³ R.C. 4175.02(C).

⁴ R.C. 4175.02(D).

⁵ R.C. 4175.02(E).

⁶ R.C. 4175.03(A).

- The applicant is employed by the employer and the information is used for a performance review or a promotion application, if the employer uses that information for other similarly situated applicants.⁷

Employer retention of information about an applicant

The bill requires an employer to maintain a policy regarding the retention, disposition, access, and confidentiality of any information collected about an applicant during the initial selection process. The employer must provide an applicant an opportunity to review the policy before requiring the applicant to provide information to the employer as a part of the initial selection process. The bill prohibits an employer from retaining any information about an applicant collected during the initial selection process for longer than two years after the date on which the applicant provides the information if the employer does not hire the applicant during that period.⁸

Civil action

The bill allows an individual claiming to be aggrieved by an employer who violates the bill's prohibitions or requirements to sue the employer in a court of competent jurisdiction. If the court finds that a violation has occurred, the employer is liable to the individual for the amount of actual damages sustained by the individual as a result of the employer's violation.⁹

Definitions

As used in the bill:

"Employee selection process" means the series of decisions that results in an employer making an employment offer to an applicant and includes advertising a position, reviewing applications, interviewing applicants, and selecting an applicant to make an employment offer.

"Employer" means a person employing 15 or more employees within Ohio for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

"Initial selection process" means the first decision in the employee selection process in which the employer uses information received in a record from an applicant

⁷ R.C. 4175.03(B).

⁸ R.C. 4175.04.

⁹ R.C. 4175.05.



to determine whether the applicant will be considered for a second review for the position for which the applicant is applying.

"**Record**" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.¹⁰

HISTORY

ACTION	DATE
Introduced	04-20-16

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¹⁰ R.C. 4175.01, by reference to R.C. 1301.201, not in the bill.

